

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

MICHAEL and CHRISTINE FARRELL,

No. 06-10863

Debtor(s).

ROGER ASHKENAZI,

Plaintiff(s),

v.

A.P. No. 07-1038

MICHAEL and CHRISTINE FARRELL,

Defendant(s).


Memorandum on Motion for Order Shortening Time

Plaintiff failed to appear for a regularly-scheduled scheduling conference, and the court dismissed the case for failure to prosecute. This sanction is specifically authorized by FRCP 37(b)(2)(C), FRCP 16(f) and FRBP 7016.

It may well be that the court will relieve plaintiff from this default if his claim is colorable and he can demonstrate excusable neglect. At a very minimum, however, defendants must be compensated for the expense of having their attorney appear for nothing. A motion for relief from default must be made on notice.

1 Unless there is a valid reason for shortening time, the normal 28 days notice must be given.

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3 Dated: August 13, 2007

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7 Alan Jaroslovsky
8 U.S. Bankruptcy Judge
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